

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DAVID HATCHIGIAN	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	NO. 11-5177
I.B.E.W. LOCAL 98, HEALTH &	:	
WELFARE FUND, <i>et al.</i>	:	
	:	
Defendants.	:	

MEMORANDUM / ORDER

Plaintiff seeks a motion to vacate judgment for fraud on the court. Giving a most favorable reading to his claim, one can conclude that there is some confusion regarding the November 16, 2007 letter which he claims he never received from defendant. (See Plaintiff's Exhibit F).

In this court's opinion dated January 15, 2013, reference is made to this very letter (Exhibit 3 of defendant's motion for summary judgment). (See p. 4 of opinion).

Plaintiff claims in his present petition that he never saw the letter prior to his deposition in April, 2012, but he doesn't explain how this letter somehow constitutes fraud on the court. There is simply no sensible explanation how this was to intentionally deceive the court.

In this case, the court was asked to determine whether the Trustees acted in an arbitrary and capricious manner or abused their discretion in determining not to invoke Section E Supplemental Coverage. It concluded that it did not.

Also, the plaintiff's claim is untimely. More than 2 ½ years after he knew of this letter of November 16, 2007, he decided to file this claim. There is no good explanation for this delay.

AND NOW, this 5th day of February, 2015, upon consideration of Plaintiff's Motion to Vacate Judgment for Fraud on the Court and Defendants' Response thereto, it is hereby **ORDERED** that said Motion (Docket Nos. 36 and 37) is **DENIED**.

BY THE COURT:

s/ Ronald L. Buckwalter
RONALD L. BUCKWALTER, S.J.